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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/011,167 10/05/98 GEUZE J RILE.001.000

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HM12/0127

EXAMINER

LUBET, M

ART UNIT	PAPER NUMBER
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1644

10

DATE MAILED:

01/27/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.
09/011,167

Applicant(s)

Geuze et al.

Examiner

Lubet

Group Art Unit

1644



☒ Responsive to communication(s) filed on Feb. 2, 1998

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 1 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 1-4, 6, and 9-13 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☐ Claim(s) _____ is/are rejected.

☐ Claim(s) _____ is/are objected to.

☒ Claims 1-4, 6, and 9-13 are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
☐ received.

☐ received in Application No. (Series Code/Serial Number) _____.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☒ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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1. Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in response to this action, to elect a single invention to which the claims must be restricted.

Group I , claim(s)13, 1, 2, 3, 4 and 6 , drawn to antigen presenting vesicle.

Group II, claim(s) 9, 11 and 12 , drawn to method of making or obtaining an antigen presenting vesicle.

Group III, claim(s)10 , drawn to method of stimulating T cell comprising contacting T cells with the antigen presenting vesicle of Group I.

2. The inventions listed as Groups I-III do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons: The special technical feature of Group I is an antigen presenting vesicle. However, Melief et al. US 5,731,160 (filed May 26, 1992) teach an antigen presenting vesicle incorporating MHC I or MHC II molecules into lipid bilayers (see column 5, lines 48-63, in particular) . Therefore the technical feature linking the inventions of groups I and II does not constitute a special technical feature as defined by PCT Rule 13.2 as it does not define a contribution over the prior art.

The special technical feature of Group II is considered to be a method of obtaining an antigen presenting vesicle.

The special technical feature of Group III is considered to be a method of stimulating T cell comprising contacting T cells with the antigen presenting vesicle of Group I.

Invention of Group III are related to the invention of Group I as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product (MPEP 806.05(h)). In the instant case the products of Group I as claimed can be used in

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the materially different processes of screening peptides for the ability to bind to a particular MHC molecule or eliciting antibodies to the MHC molecules.

Inventions I and III are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case the antigen vesicles can be made according to making an vesicle comprising artificial lipid bilayers and the MHC molecule.

Because these inventions are distinct for the reasons given above and the researches required for Groups I-III are not coextensive, restriction for examination purposes as indicated is proper.

In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

3. This application contains claims directed to more than one species of the generic invention.

These species are deemed to lack unity of invention because they are not so linked as to form a single general inventive concept under PCT Rule 13.1. **If Applicant elects Group I, Applicant is further required, in reply to this action, to elect a single species which the claims shall be restricted** if no generic claims is finally held to be allowable. The species are as follow:

- A. Antigen presenting vesicles comprising MHC class I molecule
- B. Antigen presenting vesicles comprising MHC class II molecule

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The reply must also identify the claims readable on the elected species, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon allowance of a generic claims, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claims as provided by 37 CFR 1.141. If claims are added after the election, Applicant must indicate which are readable upon the elected species (MPEP 809.02).

4. The claims are deemed to correspond to the species listed above in the following manner.

The following are generic: For Group I,

Group A claim(s) 13, 1, 2, 3, 4 and 6

Group B claim(s) 13, 1, 2, 3, 4 and 6.

5. The species (Groups IA and IB) listed above do not relate to a single general inventive concept under PCT Rule 13.1 because under PCT Rule 13.2, the species lack the same or corresponding special technical feature for the following reasons. Antigen presenting vesicles comprising MHC I molecules are different biochemically and functionally from antigen presenting vesicles comprising MHC II molecules because MHC I and MHC II molecules have different biochemical and functional properties. MHC I molecules have different biochemical structures than MHC II molecules. MHC I and MHC II molecules have different antigen binding motifs and antigenic peptides bound to MHC I molecules stimulate different subsets of T cells than antigenic peptides bound to MHC II molecules (IE CD8+ versus CD4+ T cells).

9 Any inquiry concerning this communication or earlier communications from the examiner should be directed to Martha Lubet in Art Unit 1816 whose telephone number is (703) 305-7148. The examiner can normally be reached on Monday through Friday from 8:15 AM to 4:45 PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christina Chan, can be reached at (703) 305-3973. The FAX number for this group is (703) 305-3014. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0196.

Martha Lubet

Jan. 18, 2000


CHRISTINA Y. CHAN
SUPERVISORY PATENT EXAMINER
GROUP 1800-1640